

CHAPTER 6. PROTECTION OF ANADROMOUS FISH.

REGULATIONS FOR THE PROTECTION

OF ANADROMOUS FISH IN THE WATERS OF ALASKA

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PART 601. DEFINITIONS.

- 601.02 For the purpose of these regulations, the terms used herein mean the following:
- 601.04 Anadromous fish. Any of the salmon, cutthroat trout, rainbow-steelhead trout, Arctic char, Dolly Varden or sheefish which migrate to and from saltwater during their life cycle.
- 601.06 Authorized Representative. An officer or employee of the Alaska Department of Fish and Game to whom the Commissioner has delegated some or all of his authority to receive notifications, to require plans and specifications and to grant approval in the same manner as the Commissioner pursuant to these regulations.
- 601.08 Commissioner. Commissioner of the Alaska Department of Fish and Game.
- 601.10 Continuing Operation. A continuing operation means an operation which involves the continued use of the site, for the purpose intended, and to which the operator has established a legal right. Continuing operations include, but are not limited to, staked claims, leased mineral rights and stumpage agreements.
- 601.12 Notify. To communicate with the Commissioner or his authorized representative by letter, telegram, orally by radio, telephone or in person, with subsequent confirmation by the operator in writing.
- 601.14 Operator. Any person, partnership, corporation, association or governmental agency proposing acts in the waters specified in Part 609 of these regulations.
- 601.16 Specified waters. All rivers, lakes, or streams listed in Part 610 of these regulations.
- 601.18 Temporary Operation. A temporary operation means a use of the site involved, for the purpose intended, to which a legal right of continuance has not been established by the operator.
- 601.20 Tributaries. All rivers, lakes, or streams draining into specified waters.

Authority. AS 16.05.870

History. Promulgated by the Commissioner of Fish and Game on April 5, 1963; regulations to be effective on May 5, 1963 (thirty days after filing with the Secretary of State on April 5, 1963.)

PART 602. PROCEDURES FOR NOTIFICATION AND ACKNOWLEDGMENT

602.02 Circumstances when notification is required.

Notification is required when an operator desires to construct any form of hydraulic project, or use, divert, obstruct, pollute, or change the natural bed of any specified river, lake, or stream, or use any wheeled, tracked, or excavating equipment in the bed of any river, lake, or stream specified in Part 610 of these regulations. Notification is not required for those acts exempted in Part 607 of these regulations.

602.04 Time of notification.

The operator shall notify the Commissioner or his authorized representative prior to the commencement of any construction or act specified in Part 602.02 of these regulations.

602.06 Method of notification.

Notification may be made in writing, by telegram, orally by telephone, radio or in person. If not initially filed in writing, the notification shall be subsequently confirmed in writing within 15 days by the operator. A written notification shall be plainly identified on the outside face of the envelope as a Stream (or Lake) Use Notification.

602.08 Place for Notification.

Notification may be given to the Commissioner at Juneau or to his authorized representatives stationed at the following communities: Ketchikan, Wrangell, Petersburg, Sitka, Cordova, Glennallen, Homer, Seward, Kodiak, Palmer, Anchorage, Fairbanks, Dillingham, and such other communities as may be named at a later date.

602.10 Acknowledgment of notification.

The Commissioner shall acknowledge receipt of a written notification by return airmail. Acknowledgment of notification by return airmail may also be obtained from authorized representatives of the Commissioner at their field offices, except when field inspection duties of the authorized personnel requires their absence from the office.

PART 603. PROCEDURES FOR APPROVAL OF PLANS AND SPECIFICATIONS

603.02 Submission of plans and specifications.

The Commissioner or his authorized representative may, if circumstances warrant, grant full or limited approval to the proposed operation

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in his letter of acknowledgment. If the Commissioner determines that the proposed operation cannot be approved from the facts contained in the notification, he shall, in his letter of acknowledgment, require the operator to submit plans for the proposed work, including steps to be taken for the proper protection of anadromous fish, and the approximate date when the work will commence. When other than a written notification is received, the Commissioner or his authorized representative may proceed in the same manner as above, with the approval and/or requirements to be confirmed in writing upon receipt of the written notification.

603.04 Written approval of the plans required.

If written plans and specifications are required, an operator shall obtain the written approval of the Commissioner or his authorized representative as to the sufficiency of such plans and specifications before any work is commenced.

603.06 Detail of plans required.

If written plans are required, the Commissioner shall in his letter of acknowledgment, provide sufficient detail concerning the information required to insure that delays and requests for further information will be avoided.

603.08 Acknowledgment and approval of plans and specifications.

Within 15 days after receipt of written plans and specifications, the Commissioner will inform the operator as to the sufficiency of those plans. The Commissioner may notify the operator that additional time is necessary to evaluate the plans and indicate the additional time required. If the Commissioner does not send notice to the operator within 15 days, the plans are deemed approved as submitted.

603.10 Unlawful acts.

It shall be unlawful for any operator to construct any form of hydraulic project, or use, divert, obstruct, pollute, or change the natural bed of any specified water, or use any wheeled, tracked, or excavating equipment in the bed of any specified waters, except as exempted in Part 607 of these regulations, without receiving prior approval for his actions from the Commissioner or his authorized representative.

PART 604. FORM OF NOTIFICATION

604.02 Information submitted and requested by an operator.*

(a) A notification submitted by an operator shall include the following information:

- (1) A legal description of the area or the name of and location on the particular river, lake or stream or part thereof in which the operation is to be conducted.
- (2) The type and extent of the operation as it relates to the use of the river, lake, or stream concerned.
- (3) If approval is requested for a continuing operation, the continuing use which the operator has established shall be stated.

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(b) Any operator giving notice as required under Section 602.02 of these regulations may request the Commissioner or his authorized representative to specify individually by name, stream survey number, or location by latitude and longitude the various rivers, lakes and streams or parts of them that are important for the spawning and migration of anadromous fish in the area of his operation as described in such notice. Upon receipt of the request, the Commissioner or his authorized representative shall promptly provide the requested information.*

PART 605. FORM OF APPROVAL

605.02 Approval shall describe the area.

The approval by the Commissioner or his authorized representative shall describe the area of the particular river, lake, or stream for which the operation has been approved.

605.04 Approval may specify types of construction.

The approval by the Commissioner may specify certain permissible types of construction or acts and may exclude others, and may be supplemented by later approvals or stipulations for different types of construction or acts.

PART 606. TENURE OF APPROVAL

606.02 Approval of temporary operations.

Temporary operations are approved for the calendar year and are renewable upon request by the operator and review by the Commissioner or his authorized representative.

606.04 Approval and transfer of continuing operations.

(a) Continuing operations are approved for the duration of the project but are subject to review at the request of the operator or the Commissioner if the natural circumstances or methods of the operation are appreciably altered. The operator shall provide notification in accordance with these regulations when an appreciable alteration in method is planned.

(b) The approval of a continuing operation is transferable upon notification to the Commissioner. The notification shall include the name and address of the new operator and the date of the transfer.

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606.06 Expiration of approval for a continuing operation.

The approval of a continuing operation shall expire when the operator relinquishes his legal continuing use of the site through any means other than a transfer of the site to another operator.

PART 607. ACTS EXCLUDED FROM THE REQUIREMENT OF NOTIFICATION AND APPROVAL

607.02 Operations underway prior to the effective date of these regulations.

Continuing operations which have previously been approved under the provisions of Sec. 31, Chapter 94, SLA 1959, as amended, are considered approved under these regulations.

607.04 Acts excluded from the requirements under a temporary operation.

The following acts under a temporary operation are excluded from the requirements of notification and approval:

(a) Occasional, and random crossing of a specified river, lake or stream with the vehicles described in Part 602 of these regulations.

(b) Temporary operations conducted in those specified waters marked with an asterisk (*) in Part 610 of these regulations.

(c) Short term use of or diversion of water except those which result in any of the following effects on a specified river, lake, or stream:

1. appreciable dewatering
2. discharge of toxic chemicals or acids
3. deposit of excessive amounts of earth materials in the specified waters
4. disturbing spawning areas or gravels

PART 608. EMERGENCY PROVISIONS

608.02 In the case of an emergency arising from weather or stream flow conditions, the Commissioner or his authorized representative shall issue an oral permit to a riparian owner for removing any obstructions or for repairing existing structures without the necessity of submitting

prepared plans and specifications.

PART 609. CHANGES TO THE LIST OF SPECIFIED RIVERS, LAKES,
OR STREAMS

609.02 Specified rivers, lakes, or streams shall only be added to or deleted from these regulations under the provisions of the Administrative Procedures Act, AS 44.62 and its duly required advance public notice.

PART 610. WATERS SPECIFIED AS IMPORTANT
TO ANADROMOUS FISH

610.02 The following rivers, lakes, or streams or parts thereof are important for the spawning or migration of anadromous fish:

(a) Rivers, lakes, or streams within 50 miles of the coastline, including offshore islands, from Dixon Entrance, Southeast Alaska, to False Pass at the end of the Alaska Peninsula, including both sides of the Alaska Peninsula to Cape Menchikof on Bristol Bay.

(b) Rivers, lakes, or streams on Bristol Bay between Cape Menchikof and Cape Newenham as described below.

Note: Specified waters indicated with an asterisk () are excluded from the provisions of notification and approval for temporary operations (607.04(b) of these regulations.

UGASHIK WATERSHED

I. Ugashik River including:

A. Dago Creek

B. King Salmon River

- (1) Pumice Creek
- (2) Old Creek
- (3) Painter Creek
- (4) Mother Goose Lake and its tributaries.

C. Dog Salmon River

- (1) Goblet Creek
- (2) Figure Eight Creek

D. Lower Ugashik Lake and its tributaries.

E. Upper Ugashik Lake and its tributaries, excluding an unnamed creek at approximately 57° 46' N. Lat., 156° 42' W. Long.

EGEGIK WATERSHED

II. Egegik River including:

A. Big Creek (Franks Creek)

B. King Salmon River

- (1) Granite Creek
- (2) Gertrude Creek
- (3) Contact Creek
- (4) Takayofa Creek
- (5) Angle Creek

C. Swampy River

D. Shosky Creek

E. Becharof Lake and its tributaries, excluding Kejulik River above the confluence of its East fork.

NAKNEK-KVICHAK WATERSHED

III. Naknek River including:

A. Smelt Creek

B. Paul's Creek

C. King Salmon Creek

D. Eskimo Creek

E. Big Creek and its tributaries

F. Naknek Lake and its tributaries.

G. Brooks River

H. Brooks Lake and its tributaries

I. Savonoski River and its tributaries

- J. Grosvenor River
- K. Grosvenor Lake and its tributaries
- L. Colville River
- M. Colville Lake and its tributaries
- N. American River
- O. Hammersly Lake

IV. Alagnak River (also known as Branch River)

- A. Nonvianuk River
- B. Nonvianuk Lake
- C. Kulik River
- D. Kulik Lake
- E. Kukaklek Lake and its tributaries.
- F. Battle River
- G. Battle Lake

V. Kvichak River including

- A. Peck's Creek
 - (1) Reindeer Lake
- B. Kaskanak Creek
- C. Ole's Creek
- D. Iliamna Lake and its tributaries, including
 - (1) Copper River below the falls
 - * (2) Copper River above the falls
 - * (3) Chinkeleyes Creek above the first falls
 - * (4) Kakhanok River above fourth falls (rapids)
- E. Newhalen River and its tributaries
- F. Sixmile Lake and its tributaries including

- (1) Taximina River, excluding that part above the falls

G. Lake Clark and its tributaries, including

- * (1) Chulitna drainage
- (2) Kijik River up to the confluence of the outlet of Kijik Lake.
- * (3) Kijik River above the confluence of the outlet of Kijik Lake.
- (4) Tanalian River up to the falls.
- * (5) Tanalian River drainage above Tanalian Falls.

NUSHAGAK BAY WATERSHED

VI. Wood River including:

- A. Muklung River
- B. Belt Creek
- C. Silver Salmon Creek
- D. Arcana Creek
- E. Pfeiffer Creek
- F. Lake Aleknagik and its tributaries.
- G. Agulowak River
- H. Lake Nerka and its tributaries including
 - (1) Elva Creek below the falls
 - * (2) Upper Elva Creek and Upper Elva Lake
- I. Little Togiak River
- J. Little Togiak Lake and its tributaries
- K. Agulukpak River
- L. Lake Beverly and its tributaries
- M. Peace River
- N. Mikchalk Lake and its tributaries
- O. Wind River
- P. Lake Kulik and its tributaries

- Q. Grant River below the falls.
- *R. Upper Grant River
- *S. Grant Lake
- VII. Nushagak River including
- A. Little Muklung River
 - B. Portage Creek
 - C. Iowithla River
 - D. Koggiung Creek
 - E. Kokwak River and its tributaries
 - (1) Okstukuk Lake and its tributaries
 - F. Klutuk Creek
 - G. Tunravik Creek
 - H. Nunachuak Creek
 - I. Cranberry Creek
 - J. Napatoli Creek
 - K. Harris Creek
 - L. Unnamed Creek entering at $59^{\circ} 55' \text{ N. Lat.}, 157^{\circ} 30' \text{ W. Long.}$
 - M. Klutispaw River
 - N. Vukpalik Creek
 - O. King Salmon River and its tributaries
 - P. Chichitnok River
- VIII. Mulchatna River including:
- A. Stuyahok River
 - (1) North Fork
 - (2) South Fork

- B. Old Man Creek
 - C. Koktuli River including North and South forks and *Swan River
 - D. Mosquito Creek
 - E. Chilchitna River including
 - (1) Nikadavna Creek
 - (2) Tutna Lake
 - F. Dummy Creek
 - G. Chilkadrotna River including:
 - (1) Twin Lakes
 - (2) Little Mulchatna River
 - (3) Little Mulchatna Lake
 - H. Summit Creek
 - I. Bonanza Creek
 - J. Turquoise Lake
- IX. Nuyakuk River including
- A. Little King Salmon River
 - B. Unnamed tributary entering at $59^{\circ} 53' \text{ N. Lat.}, 157^{\circ} 37' \text{ W. Long.}$
 - C. Tikchik Lake and its tributaries
 - D. Tikchik River including
 - (1) Cow Creek
 - (2) Lush Creek
 - (3) Rat Creek
 - *E. Upnuk Lake
 - *F. Slate Lake
 - *G. Nishlik Lake
 - H. Nuyakuk Lake and its tributaries excluding Pike Slough
 - I. Rapids River

- J. Lake Chauekuktuli and its tributaries excluding Shadow Bay
- K. Allen River below the falls
- *L. Upper Allen River
- *M. Chikuminuk Lake
- X. Snake River including:
- A. Weary River
- B. Land Otter Creek
- C. Lake Nunavaugaluk and its tributaries
- XI. Igushik River and its tributaries entering north of the village of Manokotak.
- A. Amanka Lake and its tributaries including:
- B. Kathlene River
- (1) Ongoke River
- C. Ualik Lake and its tributaries.

TOGIAC BAY WATERSHED

- XII. Kanik River including:
- A. Tithe Creek including the spring-fed ponds
- XIII. Kulukak River including:
- A. East Fork
- B. Kulukak Lake and its tributaries
- XIV. Ungalikthluk River including:
- A. Nukayachagak River
- XV. Togiak River
- A. Gechiak Creek
- (1) Gechiak Lake and its tributaries

- B. Unnamed creek entering at approximately 160° 10' W. Long; 59° 22' N. Lat.
- C. Pungokebuk Creek
- (1) Pungokebuk Lake
- D. Kashiak River below the falls
- E. Narogurum River and its tributaries
- (1) Nevevok Lake
- F. Ongivinuk River and its tributaries
- (1) Ongivinuk Lake and its tributaries
- G. Kipnuktuli Creek
- H. Togiak Lake and its tributaries
- (1) West Togiak Lake and its main tributary
- I. Zwischen River (connecting Togiak and Upper Togiak Lakes) and its tributaries excluding High Lake and that portion of its outlet stream above the falls.
- J. Upper Togiak Lake and its tributaries
- (1) Isavieknik River
- XVI. Kurtluk River including
- A. West Fork
- XVII. Quigmy River and its tributaries
- XVIII. Matogak River including:
- A. Nisua River
- XIX. Osviak River and its tributaries
- XX. North Hagemeister Creek
- XXI. South Hagemeister Creek
- XXII. Slug River